IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 11.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.453 of 2006

Palanichamy .. Petitioner

Vs.

1. The District Collector and
   District Magistrate,
   Tiruchirapalli District.
2. The Secretary to Government,
   Prohibition and Excise Department,
   Fort St. George, Chennai-9.
3. The Inspector of Police,
   Lalgudi Circle. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct the respondents to produce the body of the detenue viz., Sarathadevi, wife of Palanichamy before this Court, who is now detained in Special Prison for Women, Trichy in pursuant to the detention order passed by the first respondent in Cr.M.P.No.40 of 2006 dated 07.04.2006, call for records and quash the same and set the detenue at liberty.

For Petitioner : Mr.N.Mohideen Basha
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, who is the husband of the detenue by name Saradha Devi, who is detained as a 'Bootlegger" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 07.04.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

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3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenue, which vitiates the ultimate order of detention. With reference to the above claim, the learned Additional Public Prosecutor has placed the details, which show that the representation of the detenue dated 21.04.2006 was received by the Government on 24.04.2006 and remarks were called for on 25.04.2006 and the reminder was sent on 05.05.2006 and the remarks were received by the Government on the same day i.e. on 05.05.2006 and the File was also sent on the dame day i.e. on 05.05.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on 09.05.2006 and finally, the Minister for Prohibition and Excise passed orders on 23.05.2006. The rejection letter was prepared on 24.05.2006 and the same was sent to the detenue on 25.05.2006 and served to her on 27.05.2006. As rightly pointed out by the learned counsel for the petitioner, though the Deputy Secretary dealt with the file on 09.05.2006, the Minister for Prohibition and Excise passed an order only on 23.05.2006 and there is no explanation at all for taking time for passing the order till 23.05.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for passing the order is on the higher side and we hold that the said delay has prejudiced the detenue in disposal of her representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenue is directed to be set at liberty forthwith from the custody unless she is required in some other case or cause.

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1.The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The District Collector and District Magistrate,Tiruchirapalli District.

4.The Inspector of Police, Lalgudi Circle.

5.The Superintendent, Central Prison for Women, Tiruchirappalli.
(In duplicate for communication to detenue)

6.The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

HCP. No.453 of 2006

TEJ (CO)/RSM/20.7.2006

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